

DOJ Letterhead

October 22, 2014

Shawn M. Garvin  
Regional Administrator  
U.S. EPA Region 3 (3RA00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

RE: State of Delaware Surface Water Quality Standards

Dear Administrator Garvin:

This letter is to verify the legal standing of the State of Delaware Surface Water Quality Standards (“Standards”), which were recently revised by the Department of Natural Resources and Environmental Control (“DNREC”).

On April 1, 2014, a public hearing notice and the proposed revisions to the regulations were published, pursuant to 29 *Del. C.* §10115(a), in the Delaware *Register of Regulations*. On March 30, 2014 and April 6, 2014, public notices were published, pursuant to procedures set forth in 7 *Del. C.* §6010(a), in the News Journal and the Delaware State News to advertise the April 29, 2014 public hearing on the proposed revisions to the Standards.

A public hearing was conducted on April 29, 2014, to receive comment on the proposed revisions to the Standards, pursuant to the procedures set forth in 7 *Del. C.* §6006.

Secretary’s Order 2014-WS-0019, issued August 21, 2014, adopted the proposed revisions to the Standards, with an effective sate of October 11, 2014.

I am a Deputy Attorney General and the head of our Environmental Unit, within the Civil Division of the State of Delaware Department of Justice. I routinely represent DNREC in legal matters. As the appropriate legal authority within the State of Delaware, I certify that the Standards were duly adopted pursuant to Delaware law.

Additionally, EPA Region 3 and the Delaware River Basin Commission (DRBC) have asked DNREC to verify that Delaware's Standards defer to duly adopted DRBC criteria for the Delaware River and Bay, in particular with regard to DRBC's recently adopted criteria for PCBs. 7 DE Admin. Code 7401, Surface Water Quality Standards, (Regulation 7401), at Section 4.4, provides that "For waters of the Delaware River and Delaware Bay, duly adopted Delaware River Basin Commission (DRBC) Water Quality Regulations shall be the applicable criteria. If the DRBC has not developed an applicable regulatory standard or criteria for these waters, and Delaware has, Delaware's criteria shall be applicable." Thus, DRBC's criteria for PCBs are the applicable criteria in the Delaware River and Bay.

Don't hesitate to contact the undersigned, in the event of any questions or concerns, or if you require further information.

Sincerely,

Ralph K. Durstein III  
Deputy Attorney General